

REMARKS

By Office Action dated June 22, 2005, claims 1 – 9 and 11 – 17 stand rejected for obviousness under 35 USC §103(a) in view of United States Patent No. 6, 223,222 to Fijolek. The Office Action asserts that it is inherent that a request is either a positive or a negative response and that Fijolek issues a positive response to a request by assigning bandwidth. The Office Action argues that it is further inherent that the originating multimedia computing device would respond differently (alternative action) when the response from the quality service management component is negative instead of positive.

The Office Action further asserts that the claims do not define what positive and negative responses are, under what respective circumstances the quality of service management components generate a positive or negative response, and the specific different action the originating multimedia computing device takes if the response is negative or positive.

To expedite prosecution of the present application, claims 1 and 8 have been amended to particularly recite the alternative action that is taken in the event of a negative response. The cited reference is completely devoid of any teaching or suggestion of any alternative action as recited in amended claims 1 and 8.


The Office Action further asserts that claim 11 is obvious at page 3, stating “Would it be obvious to call back further requested bandwidth again if the first request is denied? The answer is obviously “yes”. The Examiner has not

provided any basis or explanation as to how this can be rendered obvious given that the prior art fails to teach or suggest this feature.

Notwithstanding the above, amended claims 1 and 8 include the recitation of "one of initiating a call back when said communications pathway is available at said requested quality of service, camping on the communications pathway, and redirecting the communications". The recitation of initiating a call back when said communications pathway is available at said requested quality of service is clearly more than the simple recitation of calling back. Instead, the callback is made when the communications pathway is available at the quality of service requested. It may be that if a caller was not connected using the prior art method, they would try again later. However, they may again receive a negative response. This is clearly different than calling back when the communications pathway is available at the quality of service requested, as recited in the amended claims of the present application. It is therefore believed that claims 1^C and 8, and claims dependent thereupon, fully distinguish over the cited reference.

For the foregoing reasons, the above-identified application including claims 1-9 and 12-17 are patentable over Fijolek and is believed to be in condition for allowance. The Examiner's early and favorable action is respectfully requested.

Respectfully submitted,



Frank Chau
Reg. No. 34,136
Attorney for Applicant(s)

F. Chau & Associates, LLC
130 Woodbury Road
Woodbury, NY 11797
TEL.: (516) 692-8888
FAX: (516) 692-8889
FC/sg